



Foreign National Programs Conference April 26–29, 2009

Office of the Deputy Under Secretary of
Defense for Civilian Personnel Policy

Conference Report

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EXECUTIVE SUMMARY

This is the second Foreign National Programs conference held in recent years. The first was in July 2006. The conference theme, “Adopting a 21st Century Posture”, is aimed at recognizing and adapting to our Nation’s fundamentally changed defense strategy. During the past 20 years defense needs have radically changed from the Cold War alignment of large static forces in Europe and Asia aimed at containment, to expanded arrangements that address totally new threats of asymmetrical warfare and terrorist attacks. This has required extensive global repositioning to allow for expanded engagement worldwide.

The Deputy Under Secretary of Defense for Civilian Personnel Policy (DUSD (CPP)) is responsible for developing plans and policy to manage both United States citizen and foreign national employees of the Department of Defense. We could not meet our mission needs in many countries without this vital foreign national workforce. However, even though our needs have changed, foreign national program policies have remained static, with little change in basic requirements. During the same 20-year period we have seen dramatic changes in the U.S. program with the development of the National Security Personnel System and a number of demonstration projects. We have not devoted the same level of energy to our foreign national programs, and a major goal of this conference is to stimulate our thinking to seek improvements in this vital area.

Both the 2006 conference and the 2009 effort began with a careful review of current program policies and programs. Ryan New, Director of International Personnel Programs in the Office of the Deputy Under Secretary for Civilian Personnel Policy, and Dick Nicholson, who formerly held the same position, visited both the European and Pacific theaters, met with a number of key management and human resource officials, and discussed a broad range of issues in depth. They also reviewed detailed program data submitted by responsible commands for each of the countries in which we operate foreign national programs, comparing and contrasting agreement provisions, practices, procedures, and statistical data. Finally, they assessed the current DoD regulatory framework, considered possible alternatives, and reviewed discussions and conclusions reached at the 2006 conference.

The result was that three major themes were established for working group discussions by the conference attendees: governance, enduring principles, and recruiting, hiring, and pay. Our intent was to find a way forward with foreign national programs that recognizes the complexity and the extremely wide variety of systems in existence or projected, while maintaining common principles for program development and management. A major goal was to find methods to strengthen DoD oversight of program development, ensure greater consistency, improve accountability, and increase overall focus on international programs. We were fortunate in that a number of our most talented, experienced, and knowledgeable international program specialists were able to attend. The working groups thoroughly examined and tested all the suppositions, ideas, and possible outcomes for the proposed changes, and were forthright in their analysis of the material.

This report will deal in some detail regarding the observations made and conclusions reached by the working groups, but a few main ideas came through in the many discussions that were held within the working groups, and briefed by group spokespersons in the general sessions, as follows:

- Inter-Component cooperation is largely effective and aids in developing and maintaining foreign national programs
- There is room for expanding the role of the Combatant Commands in some areas
- The role of the DUSD(CPP) can be enhanced to improve program emphasis
- An intern/career management program to develop international HR specialists is badly needed
- The basic principles established in the European theater to serve as the framework for new country systems are comprehensive, effective, and will meet our military needs
- A set of tools for establishing the employer-employee relationship in emergency situations in new countries is needed
- Wage surveys and data analysis continue to serve as a reasonable and defensible basis for setting pay in most countries

The summaries in the body of this report are an attempt at capturing what was presented, what opinions were expressed, and what conclusions were reached. It is inevitable in such a product that some things will be omitted and some statements may not be accurately represented. With all its imperfections, it is our best effort to portray the conference in summary form.

1. WELCOME

Ryan New and Dick Nicholson

All of us in the Office of the Deputy Under Secretary of Defense, Civilian Personnel Policy sincerely appreciate the time and effort attendees have taken to meet here in Alexandria, Virginia. You have come from all over the globe – literally. All Components are represented, Combatant Commands, Defense Agencies, and Exchanges. We realize that you have busy schedules and many of you had to undertake long and arduous journeys to get here.

This is the second foreign national programs conference we have held in recent years. The first was in July 2006. At the first conference, we started down the path of reconfiguring how we do business overseas. We were responding to global repositioning, reductions in manpower, expansion into new countries, concerns about program management and accountability, and aging/retirement of our experienced specialists in foreign national programs.

Almost three years later, these issues have not changed; they have only continued and grown more critical. We have new implementing agreements in place or under negotiation in several countries. We're preparing to establish new personnel systems in these countries. Key employees have retired or moved on to other jobs. We need an effective means of growing experts in foreign national programs. And we still feel the need for better program focus, oversight, consistency, coordination, and accountability.

Our theme for the conference is "Adopting a 21st Century Posture". We've examined the current program, Ryan and I have visited a number of locations overseas and talked with many people who develop and utilize our foreign national programs, and we have both thoughts and questions about possible improvements. We're going to give you the opportunity to discuss all issues and potential changes in workgroups, and we're going to listen to your thoughts. We encourage you to participate fully, and help us shape the future.

Our main aim here is to inform participants of issues and events related to our programs, give you the opportunity to inform one another of your country programs and recent events or problems in your own areas of responsibility, to discuss a number of themes related to the way we now conduct business, and of course to consider some potential changes.

The essential point to be made is that we want to take advantage of the multiple and varied experiences, knowledge, and wisdom of our conference participants, and obtain feedback on potential changes.

2. OPENING REMARKS

Marilee Fitzgerald, Principal Director, Office of the Deputy Under Secretary of Defense for Civilian Personnel Policy

First, I want to thank all of the participants for taking the time and effort to be here. We're delighted that you could come, and we look forward to your active participation in the sessions planned for the next two and a half days.

This is a very significant conference for us. It follows a similar conference we held in 2006, and we want to make sure we continue this new tradition, as we re-look at old issues and consider new ways forward. Although some of our regulations were updated in the 1990s, we have not done a thorough review of foreign national programs in many years, and now is the time to re-think our policies.

Eighteen years ago we witnessed the collapse of the Soviet Union. It was the end of the Cold War, and the beginning of fundamental change for DoD. The Gulf War in 1990 showed us hints of new possibilities: a shift in focus away from heavy armored units, and demonstrated the efficacy of more sophisticated weaponry. From that time forward it was also clear that the sheer size of the Cold War military structure was no longer needed.

The changes in the geopolitical landscape were rapid and permanent. Old enemies in Eastern Europe were transformed by the expansion of NATO. Equally dramatic was the change in NATO's mission, as it participated both in the Balkans and Afghanistan, expanding its interests beyond European borders for the first time.

We also learned important political lessons from the crisis in the Balkans; that U.S. force could be used to stop military aggression and avoid humanitarian crises. Together with our allies, we could advance democracy, and assist others in gaining the benefits of a free market economy, bringing peace and prosperity to a troubled area.

Since that time we have embarked upon a fundamental change in doctrine and capabilities. In both Iraq and Afghanistan, as well as in a number of other areas around the world, our focus is on stability, security, transition, and reconstruction operations under unstable conditions. Using the last Quadrennial Defense Review as a roadmap, we have refocused our capabilities to underscore mobility, flexibility, and delivery of power quickly anywhere in the world. Interoperability of our forces is inherent in all activities, and force structure is totally aligned to the Combatant Commands during contingency operations.

Overseas, our force structure and alignment is experiencing extensive change, with major manpower reductions and consolidation in some areas, while expansion and planning for an expeditionary presence is occurring in other areas. This has reversed policies that we have relied on since World War II, and helped us reshape our capabilities to deal with today's threats.

These changes and realizations come at a time when we are in the process of negotiating international agreements and planning the development of foreign national personnel programs in a number of new countries. Clearly, now is the time to focus our attention on these programs. We want to find ways to improve processes, streamline operations, control costs, and allow programs to work better on the ground. We do not want our own rules and requirements to impede progress, but at the same time we must maintain our oversight to ensure equity, consistency, and adherence to fundamental principles.

Today we have many of our experts and key leaders together at the same time. We have provided the framework for you to consider some hard questions. We will challenge you to question the status quo, and consider how we can improve our processes. Many of you have spent years of your lives working with a set of constraints you surely have believed could be better. Now is the time to act.

3. PLENARY ADDRESS

3.1. Marc Janoff, Office of the Under Secretary of Defense for Policy, Office of the DUSD, Strategy, Plans, and Forces

Global Defense Posture and International Agreements Overview

Several strategy themes have been developed to ensure that our defense posture is effective, efficient, and capable of serving the Nation's needs. First is the need to develop flexibility to contend with uncertainty. This theme emphasizes agility by not overly concentrating forces in a few locations for particular scenarios, and allows us to plan and posture U.S. capabilities to respond rapidly to crises and contingencies anywhere in the world. Second is the need to expand allied roles and form new partnerships. This requires us to increase interoperability, facilitate modernization and transformation, diversify relationships and access points globally, and lighten U.S. foreign footprints to reduce friction with host nations.

Third is to focus within and across regions. To do this, we must balance regional presence needs with demands for expeditionary capabilities, and centrally manage forces from a global perspective for greater responsiveness. Fourth is to develop rapidly deployable capabilities. This requires us to forward station effective and rapidly deployable capabilities, and to develop flexible legal and support arrangements to ensure rapid and effective flow of capabilities into, through, and from foreign theaters of operation.

Fifth is an overarching principle, to focus on capabilities, not numbers. To do this we must update our measures of merit; i.e., we must think in terms of effective military capabilities, not numbers of personnel or platforms. Ultimately this will generate decisive military results.

The main components of global defense posture are forces, relationships, and footprint. Forces must be appropriately assigned, allocated, and apportioned. Relationships include alliance transformation, access agreement negotiation, maintenance of status protection (SOFAs), and entering into obligations to commit forces or footprint in specific scenarios. International agreements form the framework and are the enabler for these elements. Without adequate access and protections, we would be unable to proceed with long-term posture goals.

A number of global posture changes have already been accomplished, are underway, or are in the final planning process. This includes moving two heavy divisions from Germany, while sending a Stryker Brigade to Europe. The military footprint has been consolidated in Europe, presence in Iceland transformed, and Eastern European Task Forces planned. In the Pacific, U.S. Forces Korea are in transformation, relocation and consolidation are underway in Japan and Okinawa, Guam will have increased capability, air and naval assets are being moved forward to the region, and combined training is being conducted in Australia. We have worked toward access in central and southeast

Asia, as well as access and training presence in Africa. We are strengthening contingency access and training in the Western Hemisphere, while at the same time carrying out BRAC actions within the U.S.

Our regional goals in Africa are to develop a regional presence consistent with host nation and regional sensitivities, and enhance contingency access through an array of sites that serve as focal points for combined training, capacity building, and broadened relationships with host nations and other partners. In Europe we want to establish lighter, more flexible, and more deployable ground capabilities that support NATO's transformation goals, establish leading-edge air and naval power, and establish advanced training facilities as U.S. presence and access in Europe shifts to the south and east.

In the Asia-Pacific area we want to improve our ability to meet alliance commitments by strengthening our deterrence of current and emerging threats, help allies strengthen their own military capabilities to make those alliance partnerships more relevant and sustainable for the long term, and strengthen access and forward capabilities (U.S. and combined) with emerging partners in theater who can help support security cooperation, and respond to terrorism and other contingencies.

In the Greater Middle East and Central Asia we would like to develop sustainable, operationally durable, and redundant capabilities and access, reduce operational costs and improve the quality of life for U.S. forward deployed personnel. We also want to maintain a presence that assures allies and partners without aggravating regional and local sensitivities, sustain the capability to execute current OIF/OEF operations successfully, execute enduring, steady-state missions on a daily basis, support any necessary periodic surge in response to regional crises, and establish the capacity to execute other major combat operations if necessary.

In the Western Hemisphere, our goals are to develop a regional presence consistent with host nation and regional sensitivities and enhance contingency access through an array of access locations that serve as focal points for combined training, capacity building, and broadened relationships with host nations and other partners.

There is currently much activity in NATO. Operational Mentoring and Liaison Teams are at work in Afghanistan assisting in developing the Afghan National Army. The Membership Action Plan provides advice, assistance, and practical support to those nations interested in joining the Alliance. The Partnership for Peace allows other countries to build an individual relationship with NATO, choosing their own priorities for cooperation. Nuclear surety and security programs, missile defense cooperation and numerous exercises are all methods of tying the Alliance together in an ever more effective framework. Operation Active Endeavor is the Organization's multi-faceted response to the terrorist threat. The transformation of the NATO Special Operations Forces has provided additional capabilities for responding to unconventional threats, while the Strategic Airlift Capability Consortium, which will operate from Papa Air Base, Hungary, provides airlift support.

International agreements, particularly status protection agreements, are bilateral and multilateral legal arrangements pertaining to US military personnel and activities worldwide. Examples are Status of Forces Agreements (SOFA), Defense Cooperation Agreements (DCA), Access Agreements, and others. They set forth the rights and obligations of the parties, set the terms for military access and activities, and provide protections for US personnel. Protection is typically sought in areas such as jurisdiction, customs, liability, payment of fees, taxes, and others. Major agreements entail interaction with OSD General Counsel, Joint Staff Legal, OSD Regional Desks, State Department, Embassy Posts, and State Department country desks.

For a variety of reasons few International Agreements ever get to a full-scale diplomatic negotiation. Most are developed through Diplomatic notes, MOUs, and other methods. Agreements are currently under full negotiation in Poland and Colombia. Renewal agreements were recently completed with El Salvador and Nicaragua.

3.2 Mitchell Orenstein, Johns Hopkins University School of Advanced International Studies

America's Partnership with Europe

America needs partners in its role as the sole remaining superpower managing world affairs, or at least exerting significant influence on world affairs. A critical part of this process is to influence how nations emerging as economic and political powers integrate with the existing framework of advanced countries. The U.S. must determine which countries to select as partners, and how to utilize its influence.

The G-7, consisting of the U.S., the United Kingdom, France, Germany, Italy, Canada, and Japan, has an economic focus, allowing the U.S. a forum for coordinating economic policies among several of the world's major financial powers. The G-20, which, in addition to the G-7 countries, also includes China, Russia, Saudi Arabia, Brazil, Argentina, India, Indonesia, the European Union, Korea, Turkey, Mexico, and Australia, provides an even broader sphere of influence. The G-2, a proposed institutional relationship between the U.S. and China, recognizes that China, the country with the world's largest population, and already the world's third largest economy, will speak with an ever-growing voice in international economic and political affairs, and could make an ideal partner for the U.S. in the future.

Although each of these arrangements yield benefits for the U.S. in terms of influencing the course of events in world affairs, it is likely that we will need a multi-faceted approach with as many countries as possible to achieve maximum effect. Likewise, we will need to continue to seek venues in addition to those already mentioned to deal with the many complexities of international relationships.

Europe is a natural partner for the U.S. From the very beginning of our emergence as a nation, we have experienced much in the way of shared history, our basic values are very

similar, and we have maintained close economic and military relationships, especially since the end of World War II. The fact that our values are so compatible helps us to establish a balance in a world where the emerging powers have differing views about individual and human rights, and espouse philosophies that are much different, both political and economic. Thus we can form a Western liberal core to the international system, which will be important in a world where the population and economic power of the rising nations will soon outpace that of the U.S.

Investment decisions demonstrate that our focus continues to be on the European partnership. From 2000 to 2008, even as economies in the developing world and other countries grew dramatically, Europe accounted for over 57 percent of the total U.S. foreign direct investment. We invest more in the Netherlands and the United Kingdom than in Canada or Mexico, despite our close proximity. Even more surprisingly, our \$26.4 billion investment in China between 2000 and 2008 was less than our investment in Belgium, and less than half that in Ireland. We invested twice as much in Sweden as we did in India, despite the enormous potential in the world's second largest country. Also, while there are massive amounts of trade in both directions across the Atlantic, fully 59 percent of U.S. imports from the European Union consist of trade between companies with operations in both areas, an indication of how intertwined our economies are.

The U.S.-European partnership is also very much a mutual security relationship. NATO has been and continues to be a strong bond that has served both sides well, providing collective security throughout the Cold War, and a continuing sense of purpose today. Out of area operations, particularly in Afghanistan, are an ongoing demonstration of mutual reliance. The Organization for Security and Cooperation in Europe also serves as a major forum for exchange of views on security affairs, albeit a sometimes-contentious one. Finally, leadership of the International Monetary Fund, typically by a European, and the World Bank by an American, has tended to cement our economic relationships.

There has, however, been a changing balance in the partnership. European voices have become much stronger than in the past. We have taken largely different paths in response to the financial crisis, with the U.S. favoring a more comprehensive (and expensive) stimulus package, and all sides having difficulty agreeing on how to regulate markets. There has been an emphasis on inequality, in everything from government subsidies to market share to executive pay. This includes a very sharp debate on the effect of the social safety net, which is far stronger in European countries than in the U.S., as opposed to the magnitude of economic stimulus, which is much more extensive in the U.S. than in Europe. In fact, the U.S. stimulus package has paid billions of taxpayer dollars to European banks, demonstrating how we view the interconnectedness of our economies. It also shows that the U.S. needs Europe today, but both sides recognize that the U.S. also needs the large developing countries, particularly China and India.

The addition of the countries of central and Eastern Europe to the EU and NATO following the breakup of the Soviet Union have also been a factor in the changing balance. The relationship with Russia is a divisive issue, as much of Europe seeks accommodation due to Russia's willingness to use energy supplies for political ends,

while the U.S. wants effective response to aggressive behavior. The nations that have emerged from the Soviet umbrella do not trust Russia, and to some degree see themselves as pawns in any bargain between Russians and West Europeans.

In summary, the relationship with Europe is strong, and may be getting stronger. The U.S. needs Europe more than it did in the past, while Europe still relies on us for setting the strategic direction. This is due both to the nature of the EU, which remains somewhat discordant due to the differing needs and priorities of its members, and to the fact that the U.S., as the remaining superpower, views itself as having a much more strategic role in global security. The question now is whether the US-European relationship can be the cornerstone of a Western alliance to guide world affairs in cooperation with large developing countries.

3.3 Kumiah Harrison, Compensation Division Chief, Department of State, Office of Overseas Employment

Department of State Compensation of Locally Employed Staff

The Office of Overseas Employment reports to the Director General of the Foreign Service, and is responsible for the full life cycle of employment, including recruitment, compensation, performance management, recognition, and separation/retirement for over 56,000 locally employed staff (LES), the State Department's equivalent of our foreign national employees. The Office of Overseas Employment also develops policy for its programs. These overseas systems are utilized by 35 Government agencies, including many DoD entities, at 170 missions around the world.

Compensation management consists of Local Compensation Plan development and administration, which includes the salary schedule, retirement plans, health and life insurance plans, and benefits plans. There is an annual total cash compensation review for each country. The State Department process is governed by the same legislation that DoD relies on for operations of its foreign national systems, the Foreign Service Act of 1980. The Act states, in pertinent part, "...each compensation plan shall be based upon prevailing wages and compensation practices...for corresponding types of positions in the locality of employment..."

The purpose of the annual compensation review is to set a pay rate that is based upon prevailing compensation practices among leading employers, and is designed to measure labor costs, not living costs. Wage and salary data is for the most part obtained from two contractors, the Birches Group, and Watson Wyatt. The Birches Group uses a standard set of 18 benchmark jobs, and conducts a "micro-survey", usually from six to eighteen companies. It collects minimum in-hire rates and maximum rates, as well as data on cash benefits and allowances. Watson Wyatt surveys between 30 and 200 companies. The number and types of benchmark jobs vary by geographic area. Salary and benefit data are aggregated by job and reported on a market position basis.

The annual review is designed to meet two major requirements. First, the Department of State uses it to determine how its compensation practices compare to those entities in the host country that it uses as models. Second, State uses the review to determine whether it is necessary to increase compensation in order to remain competitive. The decision on whether to increase compensation, in what categories, and by how much, is made in the Office of Overseas Employment. A basic part of the wage and salary determination process is the choice of a percentile ranking that is necessary to recruit and retain a competent staff. Whereas the DoD system aims to compensate at the 50th percentile, based on the conclusion that this meets the prevailing practice requirement, the State Department has given itself much more flexibility in this area. In keeping with its desire to attract the best talent available, it generally pays well above the 50th percentile, sometimes even as high as the 90th percentile.

Looking at our two agencies in the light of our differing practices, which are based on interpretation of the same legislation, it is only natural for us to ask whether we should consider changes in our policy guidelines. It appears that DoD practices for setting foreign national pay and allowances stem from the work we do in establishing compensation for our U.S. blue-collar employees, since we follow similar procedures in this regard. These practices work well for blue collar employees in the U.S., but it is arguable that expanding the philosophy to cover white collar and retail jobs in foreign countries results in unnecessarily complicated procedures while not actually improving pay accuracy. Any review of our own policies should be based on a careful assessment of whether such change is needed, and whether advantages would be gained if changes were to be made.

Perhaps the most essential question is whether compensation practices in our foreign national programs worldwide currently allow us to recruit and retain a competent and motivated workforce. A cursory look at the 20 countries in which we currently set pay would likely lead to the conclusion that filling jobs is seldom difficult, and that we are generally able to retain the employees we need. Even in situations where the U.S. statutory "pay cap" has severely limited pay increases, as in Korea, or where pay has effectively been reduced, as in the case of the change in taxation practices by the Government of Spain, we have not seen substantial impacts on recruitment or retention.

The logical follow-on question: whether compensation is higher than necessary, or rather whether we are actually unnecessarily exceeding prevailing practice, is a much more difficult one. Certainly DoD as an organization wants to pay a living wage and fairly compensate our valued foreign national employees. As a policy goal, this should never be compromised. On the other hand, there is little doubt that DoD will experience severe budgetary limitations due to the overall need to control Government spending as a result of the growing national debt and the financial crisis. In any case, this is an area that we should consider examining. The State Department has also expressed an interest in discussing overseas compensation practices as a result of the response to Ms. Harrison's briefing, and this is planned in the near future.

4. COUNTRY PRESENTATIONS

Component experts presented briefings for 16 of the countries in which DoD agencies are responsible for establishing conditions of employment and setting pay. The descriptions of these country programs clearly demonstrate that no two countries are alike, and that a wide range of practices is utilized to accomplish program development, pay-setting, and program administration. These variations are in large part the result of differing international agreements, unique host country laws and practices, and the application of various adaptations to country programs that have been made over the years. A short summary of each of the briefings follows.

4.1 Department of the Air Force – Peter Blaettner

Turkey

This is one of the most complex countries in the DoD inventory, with three separate legal employers, including the 39th Air Base Wing, AAFES, and a base maintenance contractor. Pay is negotiated every two years with a labor union in what can only be described as a difficult labor environment wherein the threat of binding arbitration creates the potential for decisions with undetermined consequences. Due to an earlier arbitration decision regarding pay, wage surveys regularly result in a pay scale that is lower than the actual current rate of pay. In order to gain approval for any negotiated increase, the Air Force must seek a public interest determination. Turkey is also the only country that is exempt from the pay cap language that is incorporated into the annual National Defense Appropriations Act.

A collective labor agreement (CLA) specifies the issues that must be discussed with the TURK HARB labor union, to which 95 percent of employees belong. There is a two level union structure, consisting of a committee with shop stewards and local union branch officials at the lower level, and the High Board with national union officials at the higher level. Final decisions are rendered by management, but are subject to labor court review. Strikes are generally illegal, but are permitted in conjunction with CLA negotiations.

A major issue in this program is the introduction of part-time employment. Although management has been interested in such an arrangement for some time, and has discussed it with TURK HARB on several occasions, it has not been able to gain union concurrence with this proposal. Therefore, a unilateral implementation has been initiated.

Portugal

As in other European countries, the NATO Status of Forces Agreement is the overall basis for the foreign national hiring system, implemented by a 1995 U.S. - Portugal Agreement on Cooperation and Defense, as well as a supplemental Labor Agreement, and Work Regulation. Portugal is unusual in that it is the only country in which the Office of the Deputy Under Secretary of Defense, Civilian Personnel Policy plays a direct

role, with the DUSD (CPP) or his or her Principal Deputy serving as a member of the Labor Committee, which meets twice a year. Also on the Committee are representatives from the U.S. Embassy in Lisbon and USAFE/A1K. Portuguese members of the Labor Committee include representatives from the Ministry of Defense, the Ministry of Labor, and the Regional Government of the Azores.

There are three levels of consideration and cooperation in this arrangement. First is the 65th Air Base Wing and the HQ Azores Air Zone, second is the Labor Committee, and the third level is a Standing Bilateral Commission, which also meets twice annually. Issues that cannot be resolved by the two lower levels may be brought to the Bilateral Commission for final resolution. Probably the most contentious issue is the annual pay increase. Although the wage survey process is actually incorporated into the international agreement, the pay cap is applied, sometimes resulting in an increase that is below survey findings. Efforts are underway to renegotiate the agreement to eliminate the conflict.

United Kingdom – Indirect Hire

In this system the UK Ministry of Defense is the legal employer, and the U.S. Forces the so-called “utilizer” of employees. A 1996 U.S.-UK Indirect Hire Arrangement agreement establishes the principle that UK civil service conditions apply to these employees. The Civilian Personnel Council (CPC), co-chaired by USAFE/A1K and the UK RAF Air Command, discusses any issues related to the utilization of the employees. EUCOM Directive 30-6 requires the establishment of a CPC for all indirect hire systems.

Although this program has functioned reasonably well for many years, there have been substantial recent problems in timeliness of job fill, to the degree that it affects operations. USAFE is looking at a possible change to the indirect hire system as a result of this significant problem.

United Kingdom – Direct Hire

The U.S. Forces are the legal employer and hire foreign national employees directly in this system. The legal authority is the NATO SOFA, and UK labor law applies fully to all aspects of employment. A tri-service committee, the Joint Civilian Personnel Committee, currently makes personnel policy decisions. Employees have not requested representation by labor unions; there is no host government or U.S. Embassy involvement, and no coverage of issues in the news media. Pay is set annually by analysis of wage survey data, which also includes information on other conditions of employment.

This system graphically illustrates the effects of the drawdown on a foreign national program. Until fairly recently it was a fully operating three Component system, but the Army has closed all its UK installations and the Navy will do so this year, which will leave this as essentially an Air Force program with a few employees from the other Components.

Department of the Navy – Al Spinelli, Laithe Haik, and Valerie Martines

Overall, the Navy reports that the number of foreign national employees is decreasing, and the trend for the foreseeable future will continue to be a downward slope. This may be problematic over time, as the countries in which we operate expect that as a result of U.S. Forces presence there will be jobs, contracts, and economic stimulus. It was also pointed out that despite reductions the Navy will continue to focus on getting the right people into the right jobs in a timely manner.

Italy

The Navy, which currently has the largest number of foreign national employees in Italy, chairs the Joint Civilian Personnel Committee, on which both the Army and the Air Force are also represented. This situation may change with the anticipated growth of the Army workforce. Italian employees are represented by two of the country's largest labor unions. Labor and appellate courts play a major role in conditions of employment. Compensation levels are set by an annual wage survey of Italian industry and commerce and tri-service analysis of the data. The latest pay increase was 3.25 percent in September 2008. Negotiation of a Unified Grading Plan has continued for a number of years.

The 2008 closure of the U.S. Navy support base at La Maddalena, located north of the island of Sardinia, affected the employment of approximately 200 foreign nationals. Jobs were found for all who were willing to relocate. Other major challenges include compliance with European Union regulations, the effects of the economic crisis and the attention that is being paid to reduction in force actions, and, as in many other countries, difficulty of U.S. personnel in appreciating cultural differences.

Spain

There is one Naval Station located in Rota, on the southwestern coast of Spain, with 1,063 foreign national employees, and an Air Base at Moron, near Seville, which has very limited operations and only six foreign national employees. The employment system is indirect hire, with the Spanish Ministry of Defense serving as the legal employer. Labor contracts are negotiated by the MoD and the U.S. Forces. The third Collective Labor Agreement, which expired in 2004, is pending renegotiation.

Relations are generally considered good, and the indirect hire system normally functions quite well. There is an agreement in place that requires that 70 percent of the civilian workforce be Spanish citizens, and 30 percent U.S., and this ratio is very carefully watched.

Greece

This is also an indirect hire system, with 209 foreign nationals primarily employed by the Navy at Souda Bay Naval Support Activity, located on the island of Crete. A 1960 indirect hire agreement with the Hellenic Air Force (HAF) establishes the Hellenic Office of Administration, part of the HAF, as the legal employer. A Civilian Personnel Council governs the arrangement. The CPC last met in October 2008. The 2008 pay schedules remain unsigned, but the tentative pay adjustment has been determined to be a 2.1 percent base pay increase, representing an overall increase to total compensation of 2.5 percent.

Crete has a high unemployment rate, and jobs with the U.S. Forces are coveted. There is a great deal of political interest in all U.S. activities in the area.

Bahrain

A country-to-country agreement governs this direct hire system, which employs 547 primarily third country national (TCN) personnel. The Bahrain Labor Law of 15 August 1976 must be followed in this arrangement. Employees are not represented by a labor union, nor do they have the right to strike. Employee appeals are decided directly by the Commander, U.S. Navy Central Command; all decisions are final. Pay is tied to the host nation civil service pay system, which has resulted in substantial increases for some jobs.

Most TCN employees are Indians or Pakistanis, although a number are ethnic Iranis who do not particularly desire to work for the U.S. Forces. Efforts to hire Bahraini citizens have not been successful. Several years ago there was an evacuation of U.S. citizen family members, which resulted in the hiring of additional TCNs. Family members subsequently returned, and many would like the opportunity to work. A major issue is whether to reduce TCN employment to create more jobs for family members.

Egypt

The Personal Services Agreement (PSA) with the Department of State permits DoD to utilize the PSA authority to hire foreign nationals, most of whom work for either the Navy Medical Research Unit or the Office of Military Cooperation. Host country labor laws and prevailing practices are followed. The U.S. Embassy plays an active role in the development of foreign national personnel policy.

The State Department has raised an issue with regard to foreign national employees of three AAFES stores in Egypt. They have been hired under the PSA authority, which requires that the employing organization report to the Embassy Chief of Mission. Further, State maintains that PSAs cannot utilize nonappropriated funds. Efforts are being made by OSD, AAFES, and State to find a solution to this problem.

Diego Garcia

This is a small island in the Indian Ocean that currently has no indigenous population. It is a UK territory, with stationing rights resulting from a 1966 agreement. The U.S.-Republic of the Philippines Offshore Labor Agreement of 1968 governs the foreign

national personnel program. Pay is set based on the U.S. Embassy Manila pay plan as employees are Filipino TCNs. All are hired on one-year temporary appointments, have unaccompanied tours, and must sign no-strike affidavits.

Due to the island's strategic location, Army, Navy, Air Force, and the Marine Corps all have activities there. There is a Joint Labor Policy Council led by the Navy. There are a number of issues related to geographic isolation and employee citizenship that have proved difficult to solve. Limited medical services are available, and individuals requiring emergency medical services must be airlifted to Singapore. TCNs are not eligible for space-available flights, nor do they have access to U.S. or British mail. Remittances for Philippine social security and health insurance have also proved problematic. Exchange rate fluctuations between the dollar and the Philippine peso have a direct impact on employment costs.

Singapore

The primary users of foreign national employees are Commander, Logistics Group Western Pacific and the Navy Regional Contracting Command. A 1990 Memorandum of Understanding permits U.S. access to facilities in Singapore. The Total Compensation Comparability Plan (TCCP) of 25 April 2000 establishes rates of pay and conditions of employment consistent with the U.S. Embassy Singapore local compensation plan. It is a direct hire system, and Republic of Singapore labor laws are followed. There are no labor unions and employees have no right to strike. There is no social security system and no unemployment insurance. There is low unemployment, but attracting and retaining a competent workforce is not an issue.

The major concern in recent years is a feature of the TCCP that incorporates the Singapore Metropolitan Rapid Transit timetable into the Plan. A change in the timetable impacted fares for MWR employees leaving work after midnight, as fares go up substantially at that hour. The issue was resolved when the Commander Naval Forces Japan Foreign Labor Office issued a letter authorizing reimbursement tied to the timetable.

United States Forces, Japan – Carey Shires

Army, Navy, Air Force, and the Marine Corps all have activities in Japan, and all have substantial numbers of foreign national employees in a workforce totaling 25,136 individuals. There are three indirect hire labor agreements; the Master Labor Contract covering appropriated fund employees, the Indirect Hire Agreement covering NAF organizations, and the Mariners Contract. Benefits are robust, with social insurance, health examinations, uniforms, and incentive cash awards all being part of the employment contract. Retirement is at age 60, but since the social security retirement eligibility age has been raised, employees are immediately rehired after retirement as Post Retirement Employees. Employees are represented by a labor union and have the right to strike.

U.S. Forces stationing affairs are governed by the U.S.-Japan Joint Committee, which has established a Labor Subcommittee to deal with labor issues. The Japanese side has representatives of the Ministries of Defense, Foreign Affairs, Health, Labor and Welfare; and Land, Infrastructure and Transportation. The U.S. is represented by U.S. Forces Japan (USFJ), a subordinate command of U.S. Pacific Command. A Joint Labor Affairs Committee (JLAC), consisting of U.S. Army, Japan, U.S. Navy, Japan, 5th Air Force, and U.S. Marine Forces, Japan, is chaired by USFJ as a non-voting member.

Perhaps the most significant element of the employment system is that the Government of Japan pays over 90 percent of all foreign national labor costs. This came about as a result of Labor Cost Sharing Agreements negotiated in 1977 and 1978, and a Special Measures Agreement negotiated in 1987, renegotiated several times since. The next renegotiation will be in 2011, and is expected to prove difficult due to Japan's growing deficit and the costs of the U.S. Forces reorganization.

United States Forces, Korea – Yong-Tae Kim

The basis for the foreign national employment system is Article XVII of the Status of Forces Agreement. It is a direct hire system that conforms to Korean labor laws, with employees being represented by a labor union and having the right to strike. A negotiated Labor Management Agreement governs the relationship. Under a Special Measures Agreement, the Republic of Korea (ROK) pays 71 percent of appropriated fund foreign national labor costs.

A Joint Labor Affairs Committee (JLAC), composed of three voting members (Army, Air Force, and Navy) and two non-voting associate members (AAFES and the Dragon Hill Lodge Hotel) determines program provisions. The Eighth Army Civilian HR Director, who also serves as the U.S. Forces Korea (USFK) Civilian Human Resources Advisor, chairs the JLAC. Pay is set by analysis of wage and benefits survey data, and applies to all USFK components within the country. Korean labor laws and court procedures do not apply to USFK foreign national employees in resolving employment disputes. However, employees have the right to submit a petition to the ROK Ministry of Labor, which can refer only certain individual cases to a special committee under the SOFA Joint Committee for binding decision.

A major issue is the relocation and consolidation of activities into two hubs, at Pyongtaek and Daegu by 2015. It is not expected that the Korean national workforce will be substantially reduced, and at this time it appears likely that most employees will relocate with their jobs. Another substantial change is that the U.S. will return command and control of ROK forces during contingency operations to the ROK Government in 2012. The relationship between the two governments is very positive. However, there are some tensions with the general population, and even a minor off-post violation by U.S. personnel gets a good deal of media coverage.

Department of the Army – Tony Lustinger and Ralf Schoenstein

Germany

This program contains elements of both direct and indirect hire systems. The U.S. is the legal employer, but the German Government represents the U.S. Forces in labor negotiations and labor courts, and administers the payroll. The basis is the NATO SOFA and Article 56 of the Supplementary Agreement. It is also the only country in which we share the employment system, in this case with the other NATO Sending States: the UK, Canada, and France. German labor and social laws apply to our workforce.

The employment system is governed by three major collective bargaining agreements, which were negotiated by the German Federal Ministry of Finance (FMF) with labor unions representing Sending States employees. Regular negotiations are conducted for annual pay increases and other system changes. A U.S. Forces Civilian Personnel Council, consisting of Army, Air Force, AAFES and U.S. European Command representatives sets the initial bargaining parameters, which then must be agreed upon by the other Sending States. Labor negotiations are conducted by the FMF with all parties present.

At the worksite employees are represented by works councils, which are established by German law to allow employees a voice in the management of the organizations in which they work. Employees and works councils may contest management actions in labor courts, whose decisions are final. Probably the most contentious issue in the long relationship between the U.S. Forces and its foreign national workforce was the military drawdown, which began in the early 1990s, and its effects continue to this day. Still, the remaining employees are dedicated to their work and their employer, and when necessary, most jobs can be filled easily.

Belgium

This program also displays elements of both direct and indirect hire systems, with the U.S. being the legal employer, while the Belgian Ministry of Defense (BMOD) acts in the name of and on behalf the U.S., including administering payroll. The NATO SOFA and a 1968 agreement with the BMOD govern the employment system. A Belgian law on employment contracts and laws applicable to contractual public sector employees (not civil servants) establish minimum employment conditions.

The host nation workforce has eight elected employee representatives. Elections are held every four years, and candidates are advanced by three Belgian national labor unions. Employees have the right to contest management actions in labor courts, which have three levels: Local Tribunals, Appeals Courts, and the Supreme Labor Court, whose decisions are binding.

The Netherlands

This is a pure indirect hire system in which the U.S. Forces utilize Dutch Ministry of Defense (DMOD) civil servants. A 1986 agreement governs the arrangement, and the

U.S. reimburses the DMOD for all costs associated with the employees. Pay, allowances, and benefits are those of the DMOD, which also administers the employees.

The “Workforce Termination Settlement Agreement”, negotiated in 1998, establishes the principal that in a reduction in force the U.S. will make a direct payment to the DMOD equal to 22 months of pay for each employee who is no longer needed, provided the DMOD is not able to locate a new position for the employee prior to the date of the reduction. This agreement was necessary because prior to that time there was no agreed-upon mechanism to release a DMOD employee, which could have resulted in open-ended costs to the U.S. Government.

Saudi Arabia

The foreign national system of employment is governed by U.S. Central Command Regulation 690-2, Administration and Management of Third State National Employees-Saudi Arabia. As a closed country, Saudi Arabia poses a number of problems with regard to an employment program. It has proved virtually impossible to hire Saudi citizens to work for the U.S. Forces, which results in the exclusive use of third state nationals. The employer must sponsor the employee, and many of our employees previously worked for other sponsoring companies, while other are brought in from outside the country. Newly hired employees must sign a transportation agreement for a one-year unaccompanied or two-year accompanied tour. They are entitled to living quarters allowances, transportation allowances, environmental morale travel, and a number of other benefits.

Prospective employees must meet OPM qualification requirements to be considered for positions. If they are transferring from another sponsor, they must have a work permit and obtain a letter from their current employer stating that the employer has no objection to release of the employee. Third state national employees with 15 or more years of creditable service are eligible to apply for a special immigrant visa through the U.S. Embassy

U.S. Southern Command – Ms. Theresa Fitzpatrick

SOUTHCOM's mission is to conduct military operations and promote security cooperation to achieve U.S. strategic objectives. Its area of focus is South America, Central America, and the Caribbean. Currently there are 84 foreign national employees appointed by the State Department and 46 employees hired under the DoD-State Department Personal Services Agreement in 25 countries in the AOR working in various host nation engagement activities. Foreign national programs are also maintained in Honduras and Guantanamo Bay, Cuba.

As in other theaters, there are challenges associated with civilian hiring. There is limited funding available to SOUTHCOM activities, and employment is costly. The PSA authority can be used to hire either U.S. citizens or foreign nationals, but the pay schedules used result in a U.S. citizen being roughly twice as costly as a foreign national.

There is emphasis on hiring family members in accordance with DoD hiring policies, and there are currently 33 U.S. civilians on the rolls, but the reality of the funding arrangement is that two foreign nationals can be hired for the cost of one U.S. citizen. Further, the family member's appointment is limited to the tenure of the sponsor, so when the sponsor is reassigned, the family member's expertise and circle of host nation contacts is no longer available. Finally, U.S. citizens typically do not speak the host country language, which can severely affect their effectiveness and hinder mission accomplishment.

U.S. European Command – Jeff Lind and Andrea Wraalstad

EUCOM's AOR was reduced with the stand-up of AFRICOM on 1 October 2008. AFRICOM was established in recognition of the continent's growing military, strategic, and economic importance in world affairs. This change also permits EUCOM to devote more focus to critical relationships in its two major geographic areas, Europe and the Black Sea – Eurasia region.

In Europe, a key focal point is the establishment of new country partnerships, which includes new European Union countries and new NATO allies. The EU currently has 27 member states, ten of which have been added since 1994. NATO has added 12 new members since 1999, with the latest being Albania and Croatia on 1 April 2009. Among many other changes, NATO expansion has resulted in the requirement to negotiate a number of new SOFA implementing agreements and arrangements.

A major issue in the AOR is the availability of affordable oil and gas resources. Large deposits exist in the Caspian Sea, Black Sea, and Caucasus regions, and they are of great strategic, as well as economic importance. Romania and Bulgaria are significant players in maintaining access to these and other natural resources. They also have great potential for use of their territory in conducting joint training. Perhaps the most critical issue in the AOR is regional security and stability, and considering the example of the Russia-Georgia dispute over South Ossetia, the potential for armed conflict is still very great. Another contentious matter is the U.S. missile defense strategy, which seeks to protect Europe and potentially the U.S. from the threat of Iranian missile strikes through use of Polish and Czech territory, a plan that is mistrusted and strongly opposed by Russia.

Among all the COCOMs, EUCOM probably has the most direct involvement in foreign national programs. Under the authority in EUCOM Directive 30-6 it establishes Joint Civilian Personnel Committees and Civilian Personnel Councils, assigns representatives of the J1 to participate in all major meetings and program development activities, and ensures the appropriate resources are brought together to support negotiation of SOFA implementing agreements/arrangements in the newer NATO countries.

5. WORKING GROUP SESSIONS – ISSUES/EXPECTATIONS

5.1 Governance

There were several comments during deliberations and closeouts from participants regarding their conclusion that the foreign national program is running well, and that they do not see any reason to "fix" something that is not broken. However, the Office of the DUSD(CPP) has serious concerns that the current framework does not adequately address. First, the current delegation of authority is from OSD to each Military Department for further delegation to its Service Component Commander in overseas theaters to jointly establish programs for foreign national employees. This leaves the Combatant Command with only the limited responsibility of setting up committees that it has no control over. Given the fact that the Military Departments do not play an active part in the process, OSD does not have the normal give and take, exchange of information and ideas, and policy discussions with Component HQs that it has in other human capital program areas. Although this is clearly a joint program, the limited authority of the Combatant Commands and the disconnected link between OSD and the military departments does not sufficiently support coherent program development or administration. As was noted several times during the conference, each country is unique, and each operates essentially on its own. As the OSD office responsible for developing plans and policy to manage DoD foreign national employees, ODUSD(CPP) continues to view this as an arrangement that requires improvement.

Second, communication regarding current issues, best practices, problems and concerns does not flow up to OSD nor does it flow between overseas theaters in a regular and consistent manner. This is in part due to the delegation, and in part due to the notion, expressed several times during the Conference, that overseas program managers are reluctant to raise issues to OSD. Thus program experts do not share issues and ideas outside the boundaries of an overseas theater, or even outside those of a single country if only one Component has foreign national employees in an individual country. Aside from conferences such as this one, there is no cross-fertilization of ideas and experience among the overseas theaters. Structural changes and increased OSD involvement could help alleviate this problem.

Third, the DUSD(CPP) is charged with the responsibility of overseeing this program, ensuring that we meet the overall goal of developing and maintaining foreign national systems that follow prevailing practice in host countries, and, as in all our dealings with human resources programs, exercising due diligence through subordinate Components and Commands to ensure that the program is as good as it can be. Given the current structure, we do not have a high level of comfort that this is so. Because it is a joint program, our office has a more direct connection with foreign national systems than with most other HR programs, yet, aside from negotiations in new countries, which now are working fairly well, we are concerned that our involvement is far too limited. Given the geographic and organizational scope of operations, it is logical that subordinate commands be utilized, and the COCOMs appear to be in the best position to offer the necessary support, i.e., to be the glue that holds this arrangement together.

OPTIONS FOR PROGRAM MODIFICATIONS

Option 1 Enhanced COCOM Role

This option would strengthen the COCOM role by making the CHR Advisor the voting chair of each of the country joint committees. It was not viewed favorably by many participants, who were concerned that authority would be taken away from the Components and given to the COCOMs, who generally employ few foreign national employees and have not in the past had a vested interest in the program. It would represent a major departure from current practice, and objections were raised concerning the expertise of the current COCOM staffs, which in most cases is less than that of Component personnel, who have been working with these programs for many years.

Pros:

- Uniformity
- More consistency across components
- Strengthens oversight, improves accountability
- COCOM would know "big picture" political views
- OSD can go directly to the Combatant Commander
- Centralization of expertise in one office would create positive results
- Decisions could be made quicker

Cons:

- Lack of resources (people, money, facilities)
- Lack of knowledge, expertise
- Requires budget-based transfer of resources currently employed
- Requires "super-human" human resources advisors with multi-country expertise
- May require country buy-in (assumedly for some indirect hire systems)
- Distance from local issues
- Inefficient
- Components more invested in outcomes
- COCOMs are set up differently, making this option harder to implement
- May be in conflict with Goldwater-Nichols Act

Option 2 Executive Agent

This option would remove the COCOM from program development altogether, and name one Component Executive Agent for each country, with a joint committee being established and chaired by the lead Component when other Components have foreign national employees in the country. It was pointed out, and probably correctly so, that the term Executive Agent is not the appropriate one, as the meaning of this term implies full authority to act. If a joint committee is established and unanimity is required, then this is not a true Executive Agent. Therefore, the proper term should be "Lead Component".

Although the general discussion and closeout briefings indicated that conference attendees favored the status quo over any of the three options, Option 2 was viewed more favorably than the other two. However, even those saying that this was the best of the three options indicated that they would still prefer COCOM involvement in the process, which essentially would make this option the same as the current arrangement.

Pros:

- Strengthens oversight and improves accountability by making a single Component primarily responsible for the program in each country
- Single Executive Agent driving hiring processes (would help close loopholes between services)
- Single set of guidance covering all Components
- Better staffing for each country program
- The current arrangement in Korea is very similar to Option 2, and the program is rated highly by all participating Components

Cons:

- Does not address unique situations in certain AORs (e.g., Japan, where no command has a majority of employees)
- Different interpretations by DoD Components may cause inconsistency in implementation
- Problematic when it comes to appointing Executive Agent (suggest rotating chair)
- Budgeting problems for the Executive Agent (would still need some local Component representatives)
- Suggest leaving COCOM role as decision maker when disputes arise, rather than OSD
- Problem with enforcing accountability (EA cannot be responsible for the actions of another Component)
- Inconsistencies within Components within theater

Option 3 One Theater Joint Committee

This option would establish only one joint committee for each theater, responsible for all countries in the AOR. The COCOM would chair the joint committee, and be a voting member. At least one workgroup found this option to be unrealistic.

Pros:

- One-stop committee (one committee versus multiple ones)
- The theater command might already exist in the Pacific (PACOM has subordinate commands)

Cons:

- Difficulty getting certain countries to sit on the same committee (i.e., a Component with no employees in a given country could be unwilling to exert much effort in dealings on that country)
- Too much diversity among countries (very difficult to overcome)

- Same Goldwater-Nichols concern as Option 1
- Would over-generalize (very cumbersome to implement)
- Doesn't help with accountability

In the second session on governance, attendees were asked to discuss whether there was another option that would accomplish the goals of strengthening oversight of foreign national program development, ensuring greater consistency, improving accountability, and increasing focus on the program. Workgroups essentially concluded that there was no acceptable option among the three already discussed, and could not advance a better proposal for achieving the stated aims. One group suggested that adding COCOM involvement to Option 2 would be better than the three proposed options individually.

One alternative offered was to slowly build a new framework, but rather than from the top down, take a bottom up approach. Components in each country would have to devise their own process, establish a clear line of authority to the COCOM, and document its conclusions thoroughly. This approach assumes that Components know where problems lie, can report them to the next higher level and then to OSD. This would recognize the fact that each country is unique, and would improve communications, according to the workgroup. Frankly, it is hard to envision how this would result in a more consistent program, or give the DUSD(CPP) improved information flow, or allow practices, ideas, and solutions to be shared across country and theater lines.

ROLE OF THE DUSD(CPP)

For this discussion, it was noted that the DUSD(CPP) has the responsibility to ensure that foreign national programs are effectively established and properly developed/maintained, but currently has a limited role in the entire process. It has no involvement in program development, with the exception of Portugal, nor does it have any direct responsibility in program administration. Three proposals were advanced:

- Specify participation/lead role in negotiation of implementing agreements and arrangements in new countries
- Strengthen oversight role for program development
- Establish requirement for DUSD(CPP) to approve joint committee members and chair

The workgroups had somewhat differing opinions on this issue. They ranged from assertion that the best role is the current role: "The way it is working is fine", to "CPP should be involved in the oversight", and "there should be a central contact (in the U.S.) who has the experience, knows all the details or issues of the program at each location...need more field experience...Should make a new position with these qualities." One group suggested that CPP could have "veto power" in overseeing Component and COCOM operations. Another suggestion was to establish an ad hoc group of experts and make them available to deal with specific issues like new country negotiations. This is essentially what has already been done in Europe in conjunction

with the negotiation of implementing agreements/arrangements in the new NATO countries.

Others expressed the opinion that the role should be advice and guidance, not to execute, but to interpret policy, advise Components and COCOMS on issues deemed critical to the program, and recommend action. Under this scenario, policy making should be centralized at the DUSD(CPP) level, should be responsive to concerns (periodic program reviews), but not closely aligned with execution (decentralized execution). Also suggested was the development of checklists, desk-books, and written guides; i.e., country-specific summary pamphlets, which would provide a record and continuity at the country level.

Workgroups were virtually unanimous in their conclusion that DUSD(CPP) should not have the authority to appoint or approve joint committee members. Essentially, the position of all who discussed this issue was that this is appropriately a Component prerogative, and OSD should not be involved in the decision. Also cited was the fact that there is much turnover in committee memberships, and this would prove restrictive and cumbersome.

There was agreement that OSD must be directly involved in the negotiation of new implementing agreements/arrangements. This is the traditional role of the DUSD(CPP), although for many years there was little activity in this area, and most instances revolved around the renegotiation of existing agreements. The expansion of NATO and the change in U.S. strategy from large fixed bases overseas to expeditionary and partnership arrangements have created the need for substantial numbers of new agreements. OSD involvement will assure consistency in principles applied, and also provides assurance to host countries that the content of these agreements is considered important at the highest levels of the U.S. Government.

PERSONAL SERVICES AGREEMENT (PSA) AUTHORITY

Many conference participants were unfamiliar with the PSA authority that overseas DoD activities are permitted to use by the Department of State in circumstances where a DoD activity reports to the U.S. Embassy Chief of Mission. Those that have used the authority believed that it should be described and regulated in the update of DoD 1400.25-M, Subchapter 1231, which is being rewritten in part as a result of the discussions that took place at this conference. PSA is an important tool in many countries, particularly where there is no DoD foreign national hiring system, and its use must comply with all State Department requirements to ensure its continued viability. In fact, CPP staff members have had several discussions with State Department representatives in an effort to ensure that PSA appointments are used appropriately. State has some concerns that we hope to overcome by adding more definitive language to our regulation.

Even though not all groups were aware of this authority, there was consensus that we should publicize and make use of all the flexibility that is available under all hiring systems that currently exist. The basis for this idea is the need to support commanders in

accomplishing their military mission. We should focus on ensuring that all tools are available to meet military requirements whenever they may be needed.

5.2 Enduring Principles

NEW COUNTRY PRINCIPLES

There was general agreement that the principles identified in recent negotiations in new NATO countries were valid, and that they should be pursued in current and future negotiations. In general, the working groups concluded that the most important elements we should strive for in negotiations were guarantees that the U.S. Forces determine the numbers, duties, qualifications, and suitability of the workforce, that employees not have the right to strike, and that we retain the right to terminate employment with no requirement to reinstate employees by host country courts or other entities. Although all agreed that the right to hire family members should be protected to the maximum degree possible, one concern was raised about raising this issue in agreement discussions, as by doing this we are essentially agreeing that the issue is subject to negotiation, and is therefore not a sovereign right.

It was also considered important by the working groups that we endeavor to ensure that in-country U.S. Forces retain the maximum amount of flexibility possible to manage our workforce. As all have experienced in the past, it is nearly impossible to anticipate every conceivable future circumstance; therefore, our agreements should leave us with the flexibility to do what is necessary to deal with events, be they military emergencies, budgetary issues, or other problems.

Some interesting ideas were raised in discussions of potential additional new country principles. One working group suggested that language should be added stating that new host country labor laws that contradict or interfere with application of agreement provisions would not automatically change the practice. Another suggestion was that we seek agreement on a clause that gives the U.S. Forces the right to hire and obtain visas/residence and work permits for third country nationals when needed. This would apply to situations where the skills needed are unavailable, or where host country nationals or residents are not available for other reasons.

There was also some concern that we may not be adequately addressing security issues in the agreements. For example, in today's climate there could be a need for such practices as periodic suitability investigations for current employees in some countries, or other ongoing security procedures that we should consider when negotiating new agreements. The need for medical certification for some positions could also be addressed in the agreements. Other suggestions were that we should seek to use the State Department's hiring system in some situations, that we address dual citizen employment in our agreements, and that we introduce a clause that provides for exemption from criminal charges if we break host country law by following provisions of the agreement.

DIRECT VS. INDIRECT HIRE EMPLOYMENT SYSTEMS

Working groups were informed that there is considerable sentiment indicating that direct hire systems are preferable to indirect hire systems, and that in negotiating agreements in new countries the U.S. Forces we should always strive to arrive at a direct hire system. They were asked to consider this contention and seek consensus on whether this is an appropriate approach.

Generally, the working groups expressed agreement that direct hire should be the preferred system in new countries. Direct hire was considered more flexible, as it gives the U.S. Forces greater control over both the process and the workforce. The opinion was expressed that this provides a better exit strategy, although experience has not always borne this out. Some expressed a concern that there is more political risk in an indirect hire system. One group also commented that direct hire was preferable because it facilitates implementation of ideal principles listed in the foregoing “New Country Principles” section.

Objections to indirect hire systems included a discussion of funding problems: funds can sometimes not be used as desired, and the fact that it is generally harder to control resource priorities. The number of positions is often limited in indirect hire systems, affecting mission accomplishment. Training in the use of these systems also can be a major burden, as they tend to be complex, following host country public service rules.

There were some dissenting views, however, that maintained there were some advantages in indirect hire systems, even though they might not be the preferred system. Some considered indirect hire better for short-term situations, comparing it to a contract for services. One group maintained that these systems could shield the U.S. Government from liability, but also noted that provisions could be negotiated into the agreement that would have that effect regardless of the system used.

PROPOSED NEW CATEGORY: HYBRID EMPLOYMENT SYSTEM

This issue was a proposal that a new category be added to the updated regulation on foreign national programs. Currently the terms “direct hire” and “indirect hire” are used. Since employment systems in some countries display elements of both systems, this would clarify those situations. Also, foreign national employees who later become U.S. citizens and are hired into the Federal service are entitled to credit for their service under certain circumstances if they were employed under direct hire systems. If the hybrid category is established and the Office of Personnel Management agrees, this could allow employees of hybrid systems to enjoy this benefit as well.

Response to this proposal was mixed, but generally positive. One working group maintained that a hybrid should exist and be recognized/described in our regulations. Another group contended that every existing system is a hybrid, and no pure direct or indirect hire currently exists. Others did not think there was a particular advantage to using a hybrid system in a new country. One group considered this to be a good idea and

suggested developing a model “enhanced hybrid” system built from principles used in existing direct and indirect hire systems.

EMERGENCY HIRING SYSTEMS

This concern refers to situations where the U.S. Forces have entered countries or areas where civil order has broken down and there is no host country government to deal with to establish a foreign national system to begin hiring locally available staff. In most cases it is the Exchanges that need to hire local personnel very quickly, but as the Forces become more established, the requirements expand to administrative staff, translators and other support staff.

All working groups agreed that this is an issue that must be addressed. In keeping with the idea expressed earlier that we should offer commanders as many tools as possible to get the job done. It was suggested that we should examine the procedures used in Iraq, Afghanistan, Djibouti, and other emergency situations, and establish a set of “best practices” offering maximum flexibility to organizations that need to establish a workforce quickly. The current practice of using contractor employees in such circumstances is timely and efficient, but there are concerns that it is unnecessarily costly.

Suggestions offered provided much food for thought. They included establishing temporary contracts, such as personal services contracts; a day labor arrangement; or designing a template that would allow for quick hiring but not be overly restrictive, and not binding the U.S. Government to any continuing obligations following the period of employment. It was also recommended that Department of State hiring practices be examined and followed where possible.

5.3 Recruiting, Hiring, Pay

PAY SETTING PROPOSAL

This proposal suggests establishing a new pay setting procedure in which a one-time wage and benefits survey would be conducted when a pay system is first established, and all subsequent pay increases would be set each year based on the pay cap language that appears in the annual DoD Appropriations Act. The U.S. Forces would have the option of using either the U.S. Federal service increase or the host country public service increase. The basis for this proposal is the fact that our current process, which requires that we conduct a detailed analysis and establish a pay rate based on actual pay and benefits in the host country, is countered by a pay cap that may prevent the payment of the full wage survey result. In such cases, pay no longer reflects prevailing practice in the host country.

All working groups disagreed with this proposal in their out briefs. The wage survey process was defended as being the most accurate method for determining pay and

benefits, and providing the most defensible results. The data and the analysis are considered to be very valuable in gaining a full understanding of all the elements of pay and benefits. However, it was noted that we are only actually using the full-scale process in six of our 20 countries (that is, in only six countries do we actually collect all the data ourselves and then analyze it).

The pay cap was considered a poor pay setting standard, as it does not reflect actual pay and benefits, but rather reflects the budgetary situation of either the U.S. or host country government. Therefore, over time the pay of foreign national employees would more resemble public service pay than the private sector, which generally provides most of the competition we meet in recruiting a competent workforce.

A significant argument against this proposal centered on the nature of public service employment. The major contention was that public sector pay is lower than the private sector, but this is countered by the value of job security, better retirement systems, and other benefits. Our systems do not offer better benefits than those found in the host country's private sector, because we seek to follow prevailing practice, and we clearly do not offer better job security, given the extensive downsizing our overseas commands have experienced in recent years. Thus, according to this argument, our pay should be based on the private sector, and not public sector increases. However, the fact that we are limiting our pay increases based on public sector caps seems to work against this argument, as we do experience pay lag in some countries.

Costs were also a consideration. Using only the pay cap could result in higher pay increases, as not all of our wage survey findings are capped each year. In the circumstance where the increase determined through the survey is less than either the U.S. or host country government increase, we would be required to pay a higher increase. Even subtracting the cost of the wage survey itself would not necessarily outweigh the cost of the higher increase.

The use of contracted wage survey data as opposed to data collected by the overseas commands themselves was discussed during deliberations over this proposal. Some participants expressed the opinion that contracted data is often inadequate, particularly for blue collar and lower level administrative positions. Others, while agreeing with the limitations posed by using contracted data, still believe it is better to use such data than to eliminate the process altogether. It was also suggested that we do further research of such companies as Watson Wyatt to discover whether better data could be gathered by a contractor on a worldwide basis, perhaps in conjunction with the State Department.

There was some discussion in the working group sessions that favored these proposals. One member suggested that it could work if there were occasional wage surveys. Another suggested that overseas commands be given the option of using the survey, another method, or the pay cap. There was some sentiment for allowing overseas commands to develop and use alternative pay setting methods if the conclusion is reached that the current system is not satisfactory. In any case, it was recommended that a

detailed cost analysis be conducted before considering this proposal any further, as it is possible that this method could result in considerable increased expenditures.

SUCCESSION PLANNING/INTERN PROGRAM

This proposal was designed to address the problem that we are gradually losing our most senior experts in foreign national programs, both on the U.S. and foreign national sides, and we have no systematic method of recruiting, hiring, and developing replacements. Various factors, including downsizing, the growth of family member employment, and the uncertain future of the U.S. Forces in many countries have combined to create this situation. It is a critical issue that should be addressed soon. Actually, this is an amalgamation of two issues: lack of sufficient U.S. HR specialists with experience in foreign national programs who can move into senior advisory and leadership positions, and lack of adequate numbers of foreign national employees working with these programs in host countries and developing the needed expertise to work on program development issues. Resolving these related problems would appear to require both a U.S. and a foreign national program. These programs envision both an intern recruitment and development effort to locate and provide early training, as well as a career program framework to manage the careers of international HR specialists once they become journeymen.

This opportunity coincides with the current weak job market, in which we believe it is possible to recruit excellent candidates with international relations and foreign language backgrounds at the entry level for internships. There is also a high potential for locating candidates with private sector or Federal HR experience who are well equipped for an international career.

No topic on the Conference agenda received more favorable comment than this one. Agreement that we need to act on this issue was expressed in working group out briefs, and in conversations with many participants. We have already lost many key people, both foreign national and U.S., and more often than not they have been replaced by employees with lesser qualifications, or not replaced at all. Unless we begin a concentrated effort, this situation is likely to worsen as more key employees reach retirement age.

Several participants stressed that success in such an effort can only be guaranteed if it is centrally funded, as shifting funding priorities in the Components have harmed such programs in the past. There was agreement that the program should be more than just an outreach/intern arrangement, but that it should also include experienced U.S. HR specialists who want to gain expertise in international programs. This would also shorten the time needed to develop journeyman level specialists who could move into jobs in the Components and the COCOMs within a few years.

It was stressed that oversight from OSD is needed, but there should be some flexibility in how the employees are developed. In addition to formal training, they would need to gain their on-the-job experience in Component overseas HR offices. The program should

feature a geographic mobility requirement similar to the State Department's Foreign Service, which would permit geographic rotation so that employees gain necessary experience, and ensure that well-trained individuals are available when appropriate jobs become vacant.

In support of such a program, participants said that its development would be of great value to all levels of DoD, including OSD, COCOMs and Components, but it would be most valuable to commanders, who have the most critical need for a functioning workforce. Given the support for this concept, we will work to make it a reality as soon as possible.

6. FINDINGS/RECOMMENDATIONS

The conference received high marks from participants in their evaluations. The outside briefings were considered pertinent and interesting, the working group topics generated good discussion, and the venue was praised by all. From the standpoint of the Office of the DUSD(CPP), the quality of the deliberations and the frankness with which participants addressed the issues was outstanding. The exchange of views and participants' willingness to provide their perspective on the issues raised will be extremely helpful to the CPP in formulating our way forward with regard to the update of DoD 1400.25-M Subchapter 1231, and development of intern and career programs for international HR specialists.

First, a summarization of the recommendations from working group discussions described in Section 5 above is as follows:

Governance: 1). Participants objected to all of the three options offered to reconfigure program operations. A fourth option was presented by a working group, to devise a "bottom up" approach and let countries/theaters develop their own programs, but this proposal does not appear to address the major issues that called for the review in the first place. 2). Discussions on the role of the DUSD(CPP) helped to focus on the issue and confirmed the need for direct involvement in new country negotiations, but still left open the question of how to improve the flow of information to CPP what the level of engagement should be. 3). Conclusions on use of the Personal Services Authority were straightforward: it should be used where appropriate and regulatory guidance should be provided by CPP.

Enduring Principles: 1). Discussions on new country principles led to the general conclusion that those already identified were well thought out and comprehensive. A few good ideas were raised which will be pursued in future negotiations. 2). The working groups explored the premise that direct hire employment systems were preferable to indirect hire, and concluded that this is generally true, but there were some dissenting views indicating that indirect hire systems could be pursued in some circumstances. We will keep the option open in future negotiations, but will have a bias in favor of direct hire. 3). The hybrid system category was viewed favorably by many but not all

participants. We will re-examine the proposal and discuss it with the Office of Personnel Management before deciding whether to include it in the draft update of DoD 1400.25-M Subchapter 1231. 4). The discussion on emergency hiring systems led to the universal conclusion that we need to develop a framework, using as many available tools as possible, that will allow commanders and support organizations to act quickly and hire host country or third country citizens as needed to support the military mission. This will be accomplished and incorporated into the new Subchapter.

Recruiting, Hiring, Pay: 1). Although there was some sentiment in working group discussions in favor of the proposal to use the annual pay cap to set pay, the consensus was that we should continue to use the wage survey approach. This still leaves major questions unanswered, such as our declining capacity to collect adequate wage, salary and benefit data, and our inability to purchase comprehensive data covering all our jobs from the private sector. Even if we make no change to the pay setting process at present, in the long run we must find a more sustainable method. 2). Succession planning must be made a priority as we continue to experience retirements and losses of our most experienced international human resources specialists. An expanded pool of employees with international experience will enhance program development and program operations in the long run, ensuring that we will be able to continue to manage this program successfully in the future. Therefore, the Office of the DUSD(CPP) is beginning work on development of an intern and career program for U.S. specialists, and will pursue efforts to develop a foreign national intern program.

Overall, the foreign national program appears to be functioning reasonably well, at least from the standpoint that no major problems or crises have arisen at the DoD level. Communications, both from the field up to DoD, in terms of meeting basic reporting requirements, and between and among field activities/COCOMs in overseas theaters, are not as consistent and effective as they should be. Oversight of the program is the weakest link at present. COCOMs, although they have the delegated authority to establish joint committees and set the regulatory framework for operations in their AOR, are not consistent with regard to their level of involvement and participation. Component headquarters do not appear to be involved in the program to any substantial degree, and in fact did not take the opportunity to play a significant role in the Conference.

This is an unusual circumstance, as the Office of the DUSD(CPP) ordinarily works closely with Component headquarters when dealing with program management issues in other human resource functional areas. Because foreign national programs are different, requiring agreement by all overseas Components with foreign national employees in a given country, it appears that the three Component headquarters seldom have direct involvement in program development activities such as pay setting or decisions on program changes. This has carried over into the management of the overall program, as the Components have not published extensive guidance on how foreign national programs should be managed and operated in the overseas area.

For the above reasons, and to ensure that DoD entities overseas maintain consistent foreign national programs that are designed to follow specific principles and meet overall

goals, we believe it is incumbent on the Office of the DUSD(CPP) to take a more definitive role, particularly in the areas of communications and program development. Given the geographic dispersion of our Forces and duty locations, we believe it necessary to enhance the role of the COCOMs, particularly in organizing and participating in the deliberations of joint committees, and to deal directly with the COCOMs as we focus more attention on foreign national programs and seek to better coordinate operations.

7. Conference Summary.

Marilee Fitzgerald, Acting Deputy Under Secretary of Defense for Civilian Personnel Policy

This conference has been a valuable and enlightening experience for all of us. I know that each of you has gained something from the presentations and working group sessions, and I believe the knowledge you have gained will enhance international program operations as you return to your worksites. From the standpoint of the Office of the Deputy Under Secretary for Civilian Personnel Policy, I can say that we have learned a great deal from the briefings and the deliberations of the working groups, and we will spend some time reviewing and thinking through our approach to the task that is ahead of us.

The first working group session dealt with three options for reconfiguring the way we now do business. In this regard we proposed either to give considerably more authority to the COCOMs, or to designate one Component as executive agent in each country, or to establish a single joint committee for each theater. All the working groups considered each of these proposals in detail, and while the descriptions of your deliberations differed, you were unanimous in your findings that none of the three proposals was preferable to the current framework. Indeed, some questioned whether any changes need to be made, essentially asking "where is the problem?" We can answer that question by addressing the current arrangement from the standpoint of the ODUSD(CPP). Quite simply, we see a need to strengthen oversight of foreign national program development, ensure greater consistency of our efforts overseas, improve accountability, and increase focus on these vital programs. The manner in which the program is currently arranged does not accomplish those goals. Therefore, we continue to believe a fix is necessary.

Regarding the role of the DUSD(CPP), we began the working group discussions by noting that our concern was that while this office has the responsibility to ensure that foreign national programs are established properly, and developed and managed in an effective and efficient manner, the current policy provides limited opportunity to do that. Working groups were unanimous in stating that we must be involved in the actual negotiation of implementing agreements and arrangements. There was also sentiment for adding in-depth technical expertise to the CPP staff, or creating an ad-hoc panel of experts to provide program guidance to Components/COCOMs. However, there was unanimity in the view that CPP should not have authority to approve joint committee members and chair, as this is considered to be a Component responsibility.

Regarding the Personal Services Authority (PSA), the working groups were in favor or using it wherever appropriate, and believed it should be regulated in DoD 1400.25-M, Subchapter 1231. We will ensure this is done.

The new country principles theme generated much discussion and many good ideas. We were pleased that working groups agreed that the work we have done to date is good and the elements we have sought to include in implementing agreements and arrangements both pertinent and positive. We will carefully consider the ideas you raised for potential improvements as we move into the development of full-scale foreign national HR programs in the new countries.

We appreciated your thoughtful consideration of the direct versus indirect hire HR system issue, as well as the proposed new hybrid system category we advanced. In addition, we thought the discussion of emergency hiring systems was particularly useful. As with the other areas we discussed, we realize that we have more work to do, and will move ahead with it as soon as possible.

Your examination of our proposal to determine annual pay increases using the pay cap principle found in the yearly Appropriations Act was forthright and honest. This is an area of great concern to all, and we have heard your opinion loud and clear. While your conclusion that we still need the wage survey process is understandable, we still have concerns that the data we are able to get either from contractors or our own collectors is not really sufficient. Added to that, the fact that we go through the wage survey and analysis process to determine appropriate compensation levels, and still often cannot implement the computed increase due to the pay cap seems to us to be extremely problematic. While we do not have a solution to this puzzle at the moment, we will continue to evaluate our options.

Finally, kudos to all of you for your thoughtful consideration of our proposed approach to succession planning. The need to create a pool of well qualified individuals to replace our senior international program experts, as well as to provide a source of candidates for key COCOM and Component international specialists is obvious. We will follow your advice and begin work on developing a program to address this problem as soon as we can. It is a major effort, but one that is extremely important to us, and we want to make sure it is successful.

The first task, as we stated at the beginning of this week's efforts, remains the rewriting of our regulation, DoD 1400.25-M, Subchapter 1231, Employment of Foreign Nationals. That document will be the tool we use to reconfigure the program to address the issues I've just discussed. We have done a lot of the preliminary work already, and will focus on getting a draft completed and out for comment soon.

Thank you again for your participation in this conference, and your willingness to roll up your sleeves and deal with the issues.